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*Attorneys for Powell Hospital District*

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF WYOMING**

|                            |   |                   |
|----------------------------|---|-------------------|
| In re:                     | ) |                   |
|                            | ) | Case No. 16-20326 |
| POWELL VALLEY HEALTH CARE, | ) |                   |
| INC.,                      | ) | Chapter 11        |
|                            | ) |                   |
| Debtor.                    | ) |                   |

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**JOINDER TO DEBTOR'S MOTION TO ENFORCE SCOPE OF THE  
AUTOMATIC STAY OR, IN THE ALTERNATIVE, MOTION TO  
EXTEND AUTOMATIC STAY AND NOTICE OF OPPORTUNITY  
TO OBJECT FILED BY POWELL HOSPITAL DISTRICT**

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Powell Hospital District (the "District"), by and through its undersigned counsel, Lewis Roca Rothgerber Christie LLP, hereby files its Joinder to Debtor's Motion to Enforce Scope of the Automatic Stay or, in the Alternative, Motion to Extend Automatic Stay and Notice of Opportunity to Objection (the "Joinder") and states as follows:

**BACKGROUND**

1. On May 16, 2016 (the "Petition Date"), Powell Valley Health Care, Inc. ("PVHC" or the "Debtor") filed a Voluntary Petition for relief under Chapter 11 of Title 11 of the U.S. Bankruptcy Code (the "Bankruptcy Code") with the U.S. Bankruptcy Court for the District of Wyoming (the "Court").

2. Thereafter, on May 24, 2016, the Debtor filed its Motion to Enforce Scope of the Automatic Stay, or in the Alternative, Motion to Extend Automatic Stay and Notice of Opportunity to Objection (Docket No. 60) (the “Motion to Extend Stay”).

3. A Response in Opposition to Debtor’s Motion to Enforce Scope of the Automatic Stay, or in the Alternative, Motion to Extend Automatic Stay was filed by creditors Nathaniel and Sheena Bates, Jan and Bart Brinkerhoff, Nancy and Earl Crawford, Anthony and Laurie DiPilla, Shannon Eller, Nancy and Larry Heiser, Sheryl and Darin Henderson, Joetta Johnson, Kalan Nicholson, Martha and Richard McMillen, Keela and Brock Meier, Michelle Oliver, Darcy Ronne, Jody and Jerry Sessions, Lynn and Janet Snell, and Veronica and William Sommerville (collectively, the “Creditors”) (Docket No. 130) (the “Response”). The Response has been joined by other similarly situated creditors (Docket No. 132).

4. For the reasons set forth in the Motion to Extend Stay and as otherwise set forth below, the District joins in the Debtor’s Motion to Extend Stay and requests the Court approve the same as it applies to the District.

#### **JOINDER IN THE DEBTOR’S MOTION TO EXTEND STAY**

5. The Debtor sets forth ample justification for why the Motion to Extend Stay should be approved under the “unusual circumstances” of this case. In addition to the arguments set forth in the Motion to Extend Stay, the District further states additional grounds for approving the Motion to Extend Stay as set forth below.

6. In the Response, it appears that the Creditors may only take issue with regard to the automatic stay being extended as to parties other than the District. *See, e.g., Response*, p. 16 (“Staying Creditors’ claims against Dr. Hansen, Health Tech and Mr. Patten will only delay the

opportunity for Creditors to recover for their injuries . . . .”). If indeed this is accurate, there appears to be no objection to extending the automatic stay to the District.

7. Furthermore, as set forth in the Motion to Extend Stay, the Debtor “shall indemnify and hold harmless the DISTRICT against all claims, liability, loss or damages whatsoever on account of any loss, injury, death, or damage arising by reason of the negligence or misconduct of PVHC.” *Motion to Extend Stay*, p. 2, ¶ 3. In essence, by virtue of the indemnification provision cited in the Debtor’s Motion to Extend Stay, any judgment entered against the District, to the extent the District is implicated in the various state court proceedings, will trigger the indemnification obligation between the Debtor and the District. *See In re W.R. Grace & Co.*, 2004 WL 954772 (Bankr. D. Del. Apr. 29, 2004) (holding that “a judgment against [a third-party] will be, in effect, a judgment against Debtor[.]”); *see also In re Calpine Corp.*, 2007 WL 1302604 (Bankr. S.D.N.Y. Apr. 30, 2007) (citing *Teachers Ins. & Annuity Ass’n v. Butler*, 803 F.2d 61, 65 (2d Cir. 1986) (affirming bankruptcy court’s order extending stay to non-debtors because “it contributes to the debtor’s efforts to achieve rehabilitation.”); *MacArthur Co. v. Johns–Manville Corp.*, 837 F.2d 89, 93 (2d Cir. 1988); *Gucci Am., Inc. v. Duty Free Apparel, Ltd.*, 328 F.Supp.2d 439, 441–442 (S.D.N.Y. 2004) (where a particular action against the non-debtor party threatens to adversely affect the debtor’s reorganization efforts, courts are willing to extend section 362(a)’s coverage accordingly); *In re Chateaugay*, 93 B.R. 26, 30 (S.D.N.Y. 1988) (acknowledging bankruptcy court’s authority to extend a stay pursuant to its injunctive power under section 105, despite the inapplicability of the automatic stay provision under 11 U.S.C. § 362); *In re Neuman*, 71 B.R. 567, 571 (S.D.N.Y. 1987) (same); *In re Ionosphere Clubs, Inc.* 111 B.R. 423, 434 (Bankr. S.D.N.Y. 1990), or when “a claim against the non-debtor will have an immediate adverse economic consequence for the debtor’s estate.” *See Queenie*,

*Ltd. v. Nygard Int'l*, 321 F.3d 282, 287 (2d Cir. 2003); *In re Gucci*, 126 F.3d 380, 392 (2d Cir. 1997) (“an action taken against a non-debtor which would inevitably have an adverse impact upon property of the estate must be barred by the automatic stay provision.”); *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 999 (4th Cir.), *cert. denied*, 479 U.S. 876 (1986) (Section 362(a)(1) applies to non-bankruptcy parties “when there is such identity between the debtor and the third-party defendant that the debtor may be said to be the real party defendant and that a judgment against the third-party defendant will in effect be a judgment against the debtor); *In re W.R. Grace & Co.* 2004 WL 954772, 2 (Bankr. D. Del. April 29, 2004) (“the automatic stay has generally been extended to the unusual situation where an action against one party is essentially an action against the bankruptcy debtor, as in the case where a third-party is entitled to indemnification by the debtor for any judgment taken against it.”)). Accordingly, the automatic stay should be extended to the District in this highly unusual case.

8. While reserving all of its rights with regard to this Joinder and any other or additional arguments, for all of the reasons set forth in the Motion to Extend Stay, which are incorporated as if wholly set forth herein, as well as the reasons set forth in this Joinder, the District supports and joins in the Debtor’s Motion to Extend Stay.

WHEREFORE, Powell Hospital District respectfully joins in the Debtor’s Motion to Extend Stay and requests that the Court approve the same, and further requests such other and further relief as may be just and proper under the circumstances.

Respectfully submitted this 30th day of June, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on June 30, 2016, a true and correct copy of **JOINDER TO DEBTOR'S MOTION TO ENFORCE SCOPE OF THE AUTOMATIC STAY OR, IN THE ALTERNATIVE, MOTION TO EXTEND AUTOMATIC STAY AND NOTICE OF OPPORTUNITY TO OBJECT FILED BY POWELL HOSPITAL DISTRICT** was mailed by depositing same in the United States mail, first-class postage prepaid, addressed to the CM/ECF registered attorneys and parties in interest at the addresses of record on the Court's electronic database as of the date of service of the above. See attached Service List.

s/ Kimberly Means

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Label Matrix for local noticing  
1089-2  
Case 16-20326  
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